

Government Agencies:

Chapter 5 State, Federal, Tribal, and Other Entities

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500.01 General

This chapter describes the role state agencies, federal agencies, tribal authorities, and railroad companies have in the Washington State Department of Transportation (WSDOT) utility work process.

The WSDOT *Design Manual* chapter on environmental permits and approvals contains procedures for acquiring necessary permits and approvals for highway construction projects. These permits are generally regulatory in nature and may apply to utility installations. The *Design Manual* does not discuss property rights relating to right of occupancy by other agencies or utilities.

500.02 State Agencies

(1) Washington State Department of Natural Resources (DNR)

DNR manages 2.6 million acres of aquatic lands, including tidelands of Puget Sound, and navigable rivers, lakes, and other waters; and 3 million acres of uplands, including forests, farms, and commercial properties. WSDOT highways cross lands and waters controlled by DNR. When highways cross waters and lands owned by DNR, DNR generally retains the right to regulate and charge for utility use of the property. DNR typically handles land transfers by County Plat Map; WSDOT right of way maps should be reviewed for concurrence with the plats. The department sends all applicants to DNR when DNR ownership is affected. WSDOT regions and the Headquarters (HQ) Bridge Division retain the right and responsibility for the approval of bridge use.

WSDOT projects and utility projects must acquire a DNR Forest Practices Permit when cutting more than 5000 board feet (approximately one log truck load) of merchantable timber.

(2) Washington State Department of Health (DOH)

DOH approves any project involving two or more domestic water connections.

(3) Washington State Department of Ecology (DOE)

DOE approves any project involving discharge of wastewater and any impacts to water quality for nearby water bodies and wetlands. DOE also regulates and requires spill prevention plans for all projects. A spill prevention plan is required for all utility installations, whether on state rights of way or not.

500.03 Federal Agencies

Contact and negotiation with federal agencies for any property rights, such as easements or rights of entry, are the responsibility of the HQ Real Estate Services Office. Requests for contact are generally initiated by the region and should include submittal of plans, appraisals, and other information necessary for negotiation.

(1) U.S. Army Corps of Engineers

Agreements with the U.S. Army Corps of Engineers (Corps) are normally entered into for dam construction and inundation of highways. These agreements are negotiated through the Utilities section of HQ Utilities, Railroad, and Agreements.

Other agreements with the Corps are handled similarly to those with the Bonneville Power Administration (see below).

Permits for Corps use or occupancy of state property are issued in accordance with [110.05](#), Local, State, or Federal Agencies.

(a) Utility Accommodation Where U.S. Army Corps of Engineers Owns Property

Where highways occupy property owned by the U.S. Army Corps of Engineers, WSDOT may only have highway operation rights and cannot grant utility accommodation rights to others. Review the highway Right of Way Plans and confer with the HQ Real Estate Services Office if questions about accommodation rights exist. If utilities locate on U.S. Army Corps of Engineers property where WSDOT has a presence but does not have utility accommodation rights, an informational document should be recorded in the Utility Franchise Permit (UFP) database. For further information, see [100.02](#), Types of Utility Accommodation Documents.

(2) U.S. Department of Energy, Bonneville Power Administration (BPA)

(a) BPA Installations With No Property Rights

Proposed crossings of the operating highway right of way by BPA transmission lines where BPA does not have a compensable or other property right requires submittal of an Application for Utility Permit or Franchise for U.S. Government Agencies (see [Appendix B](#)). All utility accommodation policies and requirements should apply. Refer to [Chapter 1](#), Utility Accommodation, for additional guidance on processing federal utility accommodation applications and other utility accommodation requirements.

(b) BPA Installations Where Property Rights Exist

When the BPA has a compensable property interest, WSDOT is required to pay the costs of any necessary relocations of existing BPA facilities to allow for the improvement of a state highway. These costs may include:

- Agreement preparation costs (if requested by the BPA).
- Preliminary engineering expenses necessary for the redesign of existing BPA facilities.
- Construction, materials, inspection, and other work necessary for the relocation of an existing facility.

(c) Funding of Relocation Expenses

Where the BPA has a property right, all costs for relocation of existing BPA facilities caused by a highway improvement project will be paid using a Trust Agreement. The Trust Agreement should establish a trust or escrow account that will fund the preliminary engineering costs (if applicable) and the construction/relocation phase of BPA facility relocation. Other payment methods may be used on a case-by-case basis if agreed to by the BPA.

(d) Reimbursable Agreement Preparation

If the BPA requests reimbursement for the preliminary engineering costs to prepare the Trust Agreement, WSDOT will prepare an actual cost Reimbursable Agreement using either a standard or nonstandard Preliminary Engineering Agreement form. Refer to [Chapter 2](#), Utility Agreements, for guidance on the preparation, processing, and approval of Preliminary Engineering Agreements.

The BPA will prepare and submit the Trust Agreement, with a signed invoice voucher, to the Region Utilities Engineer. The Region Utilities Engineer requests a UT (utility) agreement number from the HQ Division of Accountability and Financial Services and will:

- Assign that same UT agreement number to the Trust Agreement.
- Arrange to obtain the authority to perform work and funding authorization.
- Forward the Trust Agreement to [HQ Utilities](#) for approval and execution.

Upon establishment of funding and receipt of the work order authorization, the Region Utilities Engineer should ensure the voucher is prepared for processing.

The Region Utilities Engineer returns the executed Trust Agreement and voucher (advance payment trust fund) to the BPA at the same time. The BPA is informed at this time whether or not they can proceed with the work covered by the agreement.

(e) Utility Accommodation Where the U.S. Department of Energy Owns Property

Where highways occupy property owned by the U.S. Department of Energy, WSDOT may only have highway operation rights and cannot grant utility accommodation rights to others. Review the highway Right of Way Plans and confer with the HQ Real Estate Services Office if questions about accommodation rights exist. If utilities locate on U.S. Department of Energy property where WSDOT has a presence but does not have utility accommodation rights, an informational document should be recorded in the UFP database. For further information, see [100.02\(6\)](#), Informational Accommodation Documents.

(3) U.S. Department of the Interior, Bureau of Reclamation**(a) Blanket Crossing Agreement**

A “Blanket Crossing Agreement,” identified as U.S. Contract No. 14-06-100-2193 and GC-1020-B, was entered into on June 14, 1961, between the United States Department of the Interior (Bureau of Reclamation) and the Washington State Department of Transportation. This agreement outlines the responsibilities of each agency when crossing the facilities and/or right of way of the other.

(b) Purpose of the Blanket Crossing Agreement

The purpose of the Blanket Crossing Agreement is:

- To outline a procedure for handling plan approvals of construction projects wherein Bureau of Reclamation facilities or right of way are involved.
- To ensure compliance with state policy relative to the use of highway rights of way in accordance with the Utilities Accommodation Policy, which includes Chapter 468-34 WAC.
- To ensure reimbursement to the state by the Federal Highway Administration on federal-aid projects when costs are determined to be an obligation to the state.
- To ensure proper project and fund programming.

(c) Procedure for the Blanket Crossing Agreement

The working procedure for the Blanket Crossing Agreement is divided into the following two situations:

1. Project Initiated by the State

The region shall consult with the Bureau of Reclamation (and the local irrigation district, when applicable) whenever it is determined that Bureau of Reclamation facilities or property will be affected by a highway improvement. This contact can provide for negotiation of a mutually satisfactory solution for the accommodation of Bureau of Reclamation and state facilities.

a. Agreement ARTICLE 9

The region will submit construction plans, including vicinity map, plan, profile, agreement number, and details of the proposed crossing to the Bureau of Reclamation for approval in compliance with ARTICLE 9. Following the approval and signature by the Bureau of Reclamation, an original copy will be returned to the region. The region will send the original set of plans, including a signed vicinity map, to HQ Utilities for copying and distribution to the appropriate Headquarters offices.

2. Project Initiated by the Bureau of Reclamation**a. Agreement ARTICLE 9**

The Bureau of Reclamation will submit reproducible plans to the region Utilities Engineer. The region will submit the reproducible plans, along with their recommendations for approval, to HQ Utilities for review and approval. Following execution (ARTICLE 9 approval) of the plans, they will be sent to the region Utilities Engineer, who will transmit a copy to the Bureau of Reclamation.

b. ARTICLE 9 Approval Format

Approval of an item in accordance with ARTICLE 9 of the Blanket Crossing Agreement will be by affixing the appropriate signature to the vicinity map for the construction plans in a form similar to the following:

ARTICLE 9 APPROVAL

Approved By: _____ Date: _____

Title: _____

c. Approval Format Utilization

The above ARTICLE 9 approval format is used by both the WSDOT and USBR.

(d) Title to and Maintenance of Crossing Facilities**1. Project Initiated by the State – Agreement ARTICLE 16**

Upon completion of a project involving the Bureau of Reclamation, the Region Construction Engineer will sign a copy of the “as built” construction plans. The region Utilities Engineer will transmit a copy to the Bureau of Reclamation for its approval in compliance with ARTICLE 16.

Approval by the Bureau of Reclamation will consist of affixing the appropriate signature to the plans and returning them to the state. The region will retain a copy and the region will send a copy to HQ Utilities for further processing.

2. Project Initiated by the Bureau of Reclamation – Agreement ARTICLE 16

Upon completion of the project, the Bureau of Reclamation will submit “as built” plans to the region Utilities Engineer, who will transmit a copy to HQ Utilities for signature by the State Design Engineer, in accordance with ARTICLE 16 of the Blanket Crossing Agreement. Following execution, a signed copy will be sent to the region Utilities Engineer, who will transmit a copy to the Bureau of Reclamation.

3. ARTICLE 16 Approval Format

Approval of an item will be by affixing the appropriate signature (per ARTICLE 16) to the “as built” construction plans in a form that includes the following information:

The following notes should be affixed to all copies of the “As Built” construction plans. Use a format similar to the following:

United States Ownership and Maintenance (ARTICLE 16)

UNITED STATES OWNERSHIP AND MAINTENANCE

All pipe in pipelines or culvert crossings, transitions, control and delivery structures, and/or protection that may be a part of the inlet or outlet of a culvert pipeline, and all other protection, and all waterways installed for the benefit of the United States, including the continuation of such features through WSDOT rights of way.

UNITED STATES OF AMERICA

Accepted By: _____ Date: _____

Title: _____

State of Washington Ownership and Maintenance (ARTICLE 16)

STATE OF WASHINGTON OWNERSHIP AND MAINTENANCE

All (*bridges, including footings, piers, abutments, approach fills**) road surfacing, road right of way, and all embankments, ballast, and fills supporting a road.

STATE OF WASHINGTON, Department of Transportation

Accepted By: _____ Date: _____

Title: _____

*Use the Italic text within the parentheses for bridge projects

(4) U.S. Department of Agriculture, Forest Service

(a) Memorandum of Understanding, No. NFS 00-MU-11060000-040

The Memorandum of Understanding (MOU), *Highways Over National Forest Lands* (WSDOT Publication M 22-50), executed May 31, 2001, defines how WSDOT and the U.S. Department of Agriculture, Forest Service, handle certain issues on state highways that are located within Forest Service lands. Issues such as coordination; planning; highway maintenance and construction; signage; and access are discussed in the MOU.

The MOU also defines how WSDOT will communicate and inform the Forest Service when third-party utility installations are proposed within the highway right of way that occupies Forest Service lands. This MOU is currently being rewritten; always see the latest adopted document.

(b) Forest Service Opportunity to Review and Comment

WSDOT is obligated to provide the Forest Service an opportunity to review any Utility Accommodation Applications that fall within Forest Service lands. Refer to [Figure 500-1](#) for Forest Service boundary intersections on state highways.

Under the terms of the MOU (above), the Forest Service has 30 days from the receipt of the draft Utility Accommodation Application (see [Appendix B](#)) to comment on the proposed installation, with a recommendation for approval or reasons for denial of the utility installation request. After 30 days, if WSDOT has received no comment from the Forest Service, the department may grant the utility installation request.

U.S. Forest Service Areas										
State Route	RRT/RRQ Identifier	Begin SRMP	B	End SRMP	:	State Route	RRT/RRQ Identifier	Begin SRMP	B	End SRMP
002		34.74		48.48	:	113		2.00		6.06
002		48.99		98.88	:	119		9.22		10.93
012		128.40		128.48	:	123		0.00	B	2.56
012		151.15		179.14	:	131		0.00		0.01
020		102.23		110.98	:	141		29.25		29.30
020		139.10		181.28	:	165		0.00		3.44
020		210.05		214.85	:	207		0.00		4.38
020		292.67		294.88	:	395		253.32		253.48
020		312.83		335.42	:	395		256.45		256.95
020		378.60		388.46	:	395		260.87		262.80
020		398.63		400.56	:	395		264.59		270.26
021		147.96		152.58	:	410		69.21		100.11
031		15.12		26.79	:	542		32.89		57.26
090		41.04		52.72	:	542	COMTBAKR	54.60		54.97
097		152.34		163.72	:	706		10.28		13.64
097		163.72		180.88	:	906		0.00		2.65
097	AR	208.08		208.15	:	906	SPHYAK	2.55		2.98
097	AR	218.30		219.66	:	971		1.44		1.71
097	AR	224.53		224.96	:	971		1.75		2.04
101		118.15		125.52	:	971		3.74		3.77
101		208.88		219.21	:					
101		236.28		240.08	:					
101		298.01		300.90	:					
101		301.96		305.37	:					

U.S. Forest Service Boundary Crossings

Figure 500-1

(c) Disclosure of Forest Service Requirements

The MOU also obligates WSDOT to inform the utility that either a Forest Service Special Use Permit or an easement is required by the utility. However, according to the terms of the MOU, the department is under no obligation to enforce this requirement.

1. Special Provision

The terms of the MOU require that all approved utility accommodation documents that allow for encroachment upon Forest Service lands must include the following Special Provision:

Approval of this utility permit or franchise is contingent upon the applicant utility obtaining an approved USDA Forest Service Special Use Permit and/or easement for use of National Forest System land prior to the construction of the proposed utility installation.

(d) Forest Service Requirements

In addition to WSDOT obligations, the MOU obligates the Forest Service to withhold issuance of a Forest Service Special Use Permit or easement until the applying utility has an approved Utility Accommodation Application issued by the department.

500.04 Tribal Authorities

When highways exist on tribal lands, it must be determined whether there are any restrictions on WSDOT's ability to allow utility accommodations. Researching highway grants may be quite difficult since they could be by letter, Bureau of Indian Affairs (BIA) agreement, or permit, or by more formal documentation, such as easements and quitclaim deeds. If no restrictions are found, WSDOT may process utility accommodation documents in accordance with this manual.

Where rights are reserved by tribal authorities or where a right of way conveyance cannot be established, lands belonging to federally recognized Indian tribes are acknowledged to have sovereign immunity. In these areas, the Region Utilities Engineer should file an informational utility accommodation document. For information, see [100.02\(6\)](#), Informational Accommodation Documents.

Indian tribes have rights of consultation for historical and archaeological purposes beyond the specific tribal boundaries. Highway projects and major utility installations may become involved in tribal archaeological studies outside tribal boundaries. For more information, see the GIS site, Indian Reservations of Washington State (www.wsdot.wa.gov/mapsdata/geodatacatalog/Maps/24k/DOT_Cartog/federal/IndianRes.htm), WSDOT Executive Order: E 1025.00, "Tribal Consultation," and WSDOT's Tribal Liaison for further guidance.

Tribe	County
Chehalis Confederated Tribes	Grays Harbor and Thurston
Colville Confederated Tribes	Okanogan and Ferry
Cowlitz Indian Tribe	Cowlitz and Clark
Hoh Tribe	Jefferson County
Jamestown S'Klallam Tribe	Clallam
Kalispel Tribe	Pend Oreille County
Lower Elwah Klallam Tribe	Clallam County
Lummi Tribe	Whatcom County
Makah Tribe	Clallam County
Muckleshoot Tribe	King County
Nisqually Tribe	Thurston County
Nooksack Tribe	Whatcom County
Port Gamble S'Klallam Tribe	Kitsap County
Puyallup Tribe	Pierce County
Quileute Tribe	Clallam County
Quinault Nation	Grays Harbor
Sauk-Suiattle Tribe	Skagit
Shoalwater Bay Tribe	Pacific County
Skokomish Tribe	Mason County
Snoqualmie Tribe	King
Spokane Tribe	Stevens County
Squaxin Island Tribe	Mason County
Stillaguamish Tribe	Snohomish
Suquamish Tribe	Kitsap County
Swinomish Tribe	Skagit County
Tulalip Tribes	Snohomish County
Upper Skagit Tribe	Skagit
Yakama Nation	Yakima and Klickitat

Indian Tribes in Washington State

Figure 500-2

500.05 Railroad Companies

Where state highways are constructed on railroad right of way, WSDOT has acquired an easement or encroachment right. These rights are normally limited to highway operational needs and do not grant the department a right to allow utility occupancy. If utilities locate on railroad property where WSDOT has a presence but does not have utility accommodation rights, an informational document should be recorded in the Utility Franchise Permit (UFP) database (see [100.02\(6\)](#), Informational Accommodation Documents).

In reviewing a utility accommodation document application, examine highway Right of Way Plans where highways are in close proximity or cross the railroad right of way. Consult the HQ Real Estate Services Office if the highway rights are in question.

When WSDOT needs a wire or conduit crossing permit from a railroad, consult with the HQ Railroad Liaison. The permits are generally acquired by region staff. For further guidance, see [Chapter 3](#), Railroads.

